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C O N F I D E N T I A L SAN SALVADOR 001193

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E.O. 12958: DECL: 05/04/2016  
TAGS: [ES](#) [PGOV](#) [PREL](#)  
SUBJECT: EL SALVADOR: LAST-MINUTE PASSAGE OF KEY LAWS AND  
CONSTITUTIONAL REFORMS

Classified By: DCM Michael A. Butler, Reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: In its final days in office prior to its May 1 replacement by newly-elected deputies, El Salvador's outgoing Legislative Assembly approved a number of significant constitutional reforms and other legislative measures, including a witness protection law. However, under Article 248 of the Salvadoran Constitution, constitutional reforms initially require only a simple 43-vote majority in the Legislative Assembly, but must afterwards be ratified by a two-thirds (56-vote) supermajority in the following Legislative Assembly, which may prove difficult to achieve given the new legislative scenario. END SUMMARY.

¶2. (U) The Witness and Victims Protection Law was passed with 57 votes the night of April 26, and will enter into force in 120 days. The law, a response to the widespread practice among Salvadoran gangs of killing witnesses to their crimes who cooperate with police or testify in court, includes provisions for the protection of witnesses' family members, and will be overseen by the justice sector's Executive Technical Unit.

¶3. (U) Five constitutional reforms were passed prior to the 2003-2006 Assembly's dissolution at 12:00 midnight prior to May 1. The two-thirds (56-vote) qualified majority Article 148 heretofore specified as necessary for assumption of external debt (normally necessary for El Salvador's annual federal budget) was reduced to a requirement for only a simple (43-vote) majority, in cases where 60 days of debate has occurred without passage of a budget. Articles 80, 124, and 202 were amended to increase from three years to five years the terms of Legislative Assembly deputies, mayors, and city council members (and to establish a local residency requirement for the latter); this will take effect with officials elected in 2009. Article 24 regarding the inviolability of communication was amended to allow judges to issue wiretapping orders in the course of criminal investigations. Articles 182 and 193 were amended to move the forensic investigative functions of the Supreme Court's Institute of Legal Medicine to a newly-created Institute of Criminal Science under the direction of the Attorney General. Lastly, following a debate of only 10 minutes, Articles 32, 33, and 34 were amended to define marriage as an institution involving a man and a woman, effectively banning marriage between homosexuals.

¶4. (C) COMMENT: Obtaining the simple majority necessary for initial passage of the constitutional reforms was much simpler than the task that lies ahead, since the absence of support from the Farabundo Marti National Liberation Front (FMLN) was virtually irrelevant in these first votes. However, garnering the two-thirds majority necessary for their further ratification in the newly-installed Assembly presents a daunting challenge. The loose center-left "G-13"

coalition of the Revolutionary Democratic Front (FDR), Christian Democratic Party (PDC), and Democratic Change (CD) that until now assisted ARENA and their PCN allies in two-thirds majority votes no longer exists, and 32 FMLN deputies hand-picked by party hardliners for their dependable obedience to the FMLN's orthodox leadership have just been seated. ARENA leaders privately express confidence that, as with the 2003-2006 Assembly, sufficient FMLN deputies can be recruited and turned to pass legislation requiring a two-thirds majority. END COMMENT.  
Barclay